

REMARKS

In response to the Office Action mailed December 13, 2004, the Applicants have amended claims 1, 4, 7, 14, 17, and 20. Claims 1-21 are presented for examination.

The Office has objected to claims 4 and 17 under 37 C.F.R. 1.75(c) as being of improper dependent form for failing to further limit the subject matter of the previous claim. Claims 4 and 17 have been amended to obviate this objection.

The Office has objected to claims 1, 4, 14, and 17 because of informalities. Claims 1, 4, 14, and 17 have been amended to obviate this objection.

The Office has rejected claims 7 and 20 under 35 U.S.C. 112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claims 7 and 20 have been amended to obviate this objection.

The Office has rejected claims 1-2, 4-6, 9, 14-15, and 17-19 under 35 U.S.C. §102(e) as being anticipated by *Schuster* (US 6,363,053). In particular, the Office appears to consider the SLA to be "reference data characterizing a media stream" (Office action page 4, line 5-6).

Schuster describes a service level agreement (SLA) as

"an agreement between a user and a service provider that defines the nature of the service to be provided and the responsibilities of both parties... The contract is likely to take on the following form: the sender agrees to transmit traffic within a particular set of parameters, such as mean bit-rate, maximum burst size, etc., and the NAE agrees to provide the requested QoS to the sender, as long as the sender's traffic remains within the parameters." (col. 1, lines 61-63 and col. 2, lines 8-13).

The SLA is thus a mere promise by a sender to provide a particular level of service. As many a disappointed customer knows, a promised level of service is not the same as the actual level, as represented by the reference data recited in the applicant's claim 1.

Yet another distinction stems from claim 1's recitation of "reference data" as being data that "characterizes a media stream." In contrast, *Schuster's* SLA data is merely a number from a contract between the customer and the provider. This number provides a reference point for desired performance. It does not characterize, in any way, an actual media stream. It merely represents a wish that may or may not be fulfilled by an *actual* media stream.

Yet another distinction stems from claim 1's recitation of a "comparison of said reference data and said altered data." In claim 1, the "reference data" and the "altered data" relate to the *same* media stream. This is why the Applicants chose the word *said* in the phrase "obtaining altered data that characterizes *said* media stream after *said* media stream has traversed a channel."

For the sake of argument, even if *Schuster's* SLA data were considered to "characterize a media stream," *Schuster's* SLA data would not relate to the *same* media stream as the "altered data." In particular, *Schuster* teaches characterizing the data stream only after it has traversed the channel. *Schuster* fails to teach characterizing the data stream *before* that data stream has had a chance to endure the rigors of traversing the channel. *Schuster* then teaches comparing the characteristics of this data to those of some hypothetical data recited in a contract (i.e., the SLA). Moreover, *Schuster* teaches repeatedly comparing the characteristics of this same hypothetical media stream with one real media stream after another. Since the *same* hypothetical media stream is to be compared with a great many unrelated media streams, *Schuster* cannot possibly disclose providing a "comparison of said reference data and said altered data" as recited in the applicant's claim 1 where the reference data and the altered data are related to the *same* media stream.

Claims 2 and 4-7 depend on claim 1 and are patentable for at least the same reasons as claim 1. Claim 9 recites the limitation "a first feature extractor for generating reference data characterizing a media stream," which is similar to the limitation of claim 1 described above. Therefore, claim 9 is patentable for reasons similar to those provided above in relation to claim 1. Claim 14 includes the limitation "obtaining reference data that characterizes a media stream" which is similar to the limitation of claim 1 described above. Therefore, claim 14 is patentable for reasons similar to those provided above in relation to claim 1. Claims 15 and 17-19 depend on claim 14 and are patentable for at least the same reasons as the claim on which they depend.

The Office has also rejected claims 3, 13, and 16 under 35 U.S.C. §103(a) as being unpatentable over *Schuster* in view of *Morton* (US 5,912,701). Claims 3, 13, and 16 include the limitation of "comparison of said reference data and said altered data" recited in claim 1. As

discussed above, *Schuster* does not compare reference data and altered data. In addition, *Morton* does not disclose comparing such reference data to altered data. In contrast, *Morton* sends a test signal through two channels and evaluates the relationship of signals received at the outputs of the channels. Therefore, *Schuster*, even if combined with *Morton* fails to disclose the limitations of claims 3, 13, and 16.

The Office has also rejected claims 7, 8, 20, and 21 under 35 U.S.C. §103(a) as being unpatentable over *Schuster* in view of *Schuster* (US 6,360,271). Claims 7 and 20 include the limitation of "comparison of said reference data and said altered data." As discussed above *Schuster* does not compare reference data and altered data. In addition, *Schuster* '271 does not disclose comparing such reference data to altered data. Therefore, *Schuster* even if combined with *Schuster* '271 it would fail to disclose the limitations of claims 7, 8, 20, and 21.

The Office has also rejected claims 10-12 under 35 U.S.C. §103(a) as being unpatentable over *Schuster* in view of *Bartz* (US 6,701,342). Claims 10-12 include the limitation of "comparison of said reference data and said altered data" recited in claim 1. As discussed above *Schuster* does not compare reference data and altered data. In addition, *Bartz* does not disclose comparing such reference data to altered data. Therefore, *Schuster*, even if combined with *Bartz*, would fail to disclose the limitations of claims 10-12.

In view of the foregoing amendments and remarks, the entire application is believed to be in condition for allowance, and such action is respectfully requested.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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